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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/587,896	07/28/2006	Kaoru Hoshide	062710	2369
38834 7590 03/21/2011 WESTERMAN, HATTORI, DANIELS & ADRIAN, LLP 1250 CONNECTICUT AVENUE, NW SUITE 700 WASHINGTON, DC 20036				
EXAMINER HANSEN, JAMES ORVILLE				
ART UNIT 3637		PAPER NUMBER		
NOTIFICATION DATE 03/21/2011		DELIVERY MODE ELECTRONIC		

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

patentmail@whda.com

### Office Action Summary

**Application No.**

10/587,896

**Applicant(s)**

HOSHIDE ET AL.

**Examiner**

James O. Hansen

**Art Unit**

3637

**Period for Reply** -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 23 December 2010.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1, 2, 6, 7, 9 and 13-15 is/are pending in the application.
- 4a) Of the above claim(s) 2, 6/2, 9, 13/9, 14/13/9 & 15/13/9 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1, 6/1, 7, 13/7, 14/13/7 & 15/13/7 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date: \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

## DETAILED ACTION

### *Claim Rejections - 35 USC § 102*

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1 & 6/1 are rejected under 35 U.S.C. 102(b) as being anticipated by Gebauer et al., [US Patent 5,741,040]. Gebauer (figures 1-10) teaches of a movable body driving device (fig. 3) including a movable body (14) which is adapted to be movable in a certain direction (linear direction) and a driving mechanism (shown in fig. 4), the driving mechanism comprising a rotary member (32) rotatably supported on a first supporting member (70), a driving means (36 for example) for rotating the rotary member, a second supporting member (64) which is fixed to a fixed side (62 for example), and an elastic member (86, 88) which is arranged between the first supporting member and the second supporting member (note fig. 3 for example), wherein the first supporting member is supported on the second supporting member with a guide means (60) arranged therebetween (1<sup>st</sup> supporting member supported on the 2<sup>nd</sup> supporting member by way of (60) and (68) for example) in such a manner as to allow linear movement (fig. 5 – (70) moves relative with respect to (64) in a vertical displacement that is deemed incrementally linear) of the first supporting member relative to the second supporting member and is biased by the elastic member in such a direction that the first supporting member approaches the movable body, and wherein the rotary member of the driving mechanism is engaged with the movable body with

predetermined force using elastic force of the elastic member and the movable body is moved by rotating the rotary member (see disclosure). As to claim 6/1, the rotary member is a roller (drive roller) and is in contact with the movable body to move the movable body by frictional force between the roller and the movable body.

***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1, 6/1, 7 & 13/7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Carbary [US Patent 2,668,092] in view of Gebauer et al., '053. Carbary (figures 1-15) teaches of a movable body device (fig. 1) including a movable body (4) which is adapted to be movable in a certain direction (linear direction) and a sliding mechanism (shown in fig. 2), the sliding mechanism comprising a rotary member (10 or 11) rotatably supported on a first supporting member (19), a second supporting member (8) which is fixed to a fixed side (side of (3) for example), and an elastic member (51) which is arranged between the first supporting member and the second supporting member (note figs. 3 & 10 for example), wherein the first supporting member is supported on the second supporting member (fig. 10) with a guide means (20) arranged therebetween in such a manner as to allow linear movement of the first supporting member relative to the second supporting member (the vertical movement being deemed incrementally linearly) and is biased by the elastic member in such a

direction that the first supporting member approaches the movable body (fig. 10), and wherein the rotary member of the sliding mechanism is engaged with the movable body, wherein the movable body moves over the rotary member. Carbary (teaches applicant's inventive claimed device as disclosed above, but does not show a driving means associated with the rotary member for the purpose of automatically rotating the rotary member. As to this feature, Gebauer '053 is cited as an evidence reference for the known teaching of automating a device by utilizing a driving means (36) connected to a roller (32) for the purpose of moving an adjacent article. Accordingly, the position is taken that it would have been obvious to a person of ordinary skill in the art at the time the invention was made to modify the device of Carbary so as to incorporate a driving means as taught by Gebauer because this arrangement would enhance the versatility of Carbary's device since the driving means would allow the sliding body to be automatically extracted from or retracted into the cabinet body with minimum input from a user. Additionally, it has been held that broadly providing a mechanical or automatic means to replace manual activity which has accomplished the same result involves only routine skill in the art. *In re Venner*, (CCPA 1958) 262 F. 2d 91, 120 USPQ 193. As to claim 6/1, when modified, the rotary member is a roller (roller) and is in contact with the movable body and capable of moving the movable body by frictional force between the roller and the movable body when connected to the drive means. As to claim 7, the position is taken that all the similarly claimed limitations have been addressed in the above rejection, where the movable body is a drawer (4) and the fixed side is a frame body ((3) forming the compartment of the cabinet). As to claim 13/7, the position is

taken that the similarly claimed limitations have been adequately addressed in the above rejection.

5. Claim 14/13/7 is rejected under 35 U.S.C. 103(a) as being unpatentable over Carbery and Gebauer et al., '053 and further in view of Sekerich [US Patent 4,077,677]. The prior art teaches applicant's inventive claimed device as disclosed above, but Carbery does not state that the roller is made of a synthetic resin material. As to this feature, Sekerich (figures 1-4) is cited as an evidence reference for the known teaching of a roller (23) being made out of a synthetic resin material, such as nylon (col. 2). Accordingly, the position is taken that it would have been obvious to a person of ordinary skill in the art at the time the invention was made to modify the material used to manufacture the roller(s) of Carbery in view of Sekerich's teaching because this arrangement would provide Carbery with a roller made from a durable material yet low in cost.

6. Claim 15/13/7 is rejected under 35 U.S.C. 103(a) as being unpatentable over Carbery and Gebauer et al., '053 and further in view of Hamilton [US Patent 583,228]. The prior art teaches applicant's inventive claimed device as disclosed above, but Carbery does not show the drawer as including a backing member for contact with the roller [Carbery utilizes grooves formed along the underside of the drawer]. As to this feature, Hamilton (figures 1-4) is cited as an evidence reference for the known teaching of incorporating a backing member (10) along the bottom of a drawer for sliding contact with a roller (4). Accordingly, the position is taken that it would have been obvious to a person of ordinary skill in the art at the time the invention was made to modify the

drawer of Carbary so as to incorporate a backing strip {in lieu of or in addition to the grooves for example} along the drawer bottom in view of Hamilton's teaching because this arrangement would provide Carbary with a means to guide a roller along a linear path {as dependent upon the employed roller's configuration}, or provide a reinforcement means along the roller's path so as to strengthen the traveled section.

### ***Response to Arguments***

7. Applicant's arguments filed December 23, 2010 have been fully considered but they are not persuasive. With regards to applicant's remarks concerning Gebauer '040, the position is taken that the prior art adequately addresses all the claimed limitations as set forth in the claims. The new incorporation of "with guide means arranged therebetween" has been accounted for via the inclusion of element (60) so far as broadly claimed. Additionally, the position is taken that the 1<sup>st</sup> supporting member that is located along one end of the rocker arm (60) and opposite the 2<sup>nd</sup> supporting member that is located along the other end of (60) does exhibit incremental linear movement. With regards to Gebauer '053 and Ozawa, these rejections have been withdrawn in view of the present amendments to the claims. With regards to applicant's remarks concerning Carbary, the position is taken that the prior art adequately addresses all the claimed limitations as set forth in the claims. The new incorporation of "with guide means arranged therebetween" has been accounted for via the inclusion of element (20) so far as broadly claimed. Additionally, the position is taken that the 1<sup>st</sup> supporting member does exhibit incremental linear movement with respect to the 2<sup>nd</sup> supporting

member such as when fastener (49) is either tightened or loosened. As to the combination of Carbary & Gebauer '053, applicant argues against these references individually. However, one cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986). Applicant states that Carbary, when modified, does not show a driving mechanism composed of the 1<sup>st</sup> and 2<sup>nd</sup> supporting members and the elastic member *integrally*. The examiner notes that when combined/modified, the driving means of Gebauer '053 when incorporated with the rotary member of Carbary would effectively constitute an *integral* assembly since all the components would constitute the driving mechanism in as much as applicant depicts a driving mechanism compiling an assembly of components. **As an aside**, it is noted that clarification has been recorded as to the disposition of claims 14 & 15, in order to more accurately reflect the status of the claims [rejections of 14/13/7 & 15/13/7 and the withdrawal of 14/13/9 & 15/13/9]. No new action concerning these claims has been taken, the recordation is merely clerical in nature.

### ***Conclusion***

8. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within



TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to James O. Hansen whose telephone number is 571-272-6866. The examiner can normally be reached on Monday-Friday between 8-4:30 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Darnell Jayne can be reached on 571-272-7723. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/James O. Hansen/  
Primary Examiner, Art Unit 3637

JOH  
March 14, 2011